

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

64 MAY -6 PM 4: 17

U.S. DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA, FLORIDA

UNITED STATES OF AMERICA

v.

Case No. 8:03-CR-77-T-30TBM

HATIM NAJI FARIZ

UNOPPOSED MOTION FOR EXTENSION OF TIME
IN WHICH TO FILE RESPONSE TO THE GOVERNMENT'S MOTION
FOR RECONSIDERATION OF THE COURT'S MARCH 12, 2004 ORDER
REGARDING THE SCIENTER REQUIREMENT

Defendant, HATIM NAJI FARIZ, by and through undersigned counsel, and pursuant to Federal Rule of Criminal Procedure 45(b), respectfully requests that this Honorable Court grant an extension of time, up to and including May 20, 2004, to file his Response to the Government's Motion for Reconsideration of the Scienter Requirement As it Pertains to the Scienter Requirements of a Section 2339B Prosecution and Memorandum of Law in Support (Docs. 519, 520). As grounds in support, Mr. Fariz states:

1. On March 12, 2004, this Court issued an Order on the Defendants' pending motions to dismiss, strike, and for reconsideration of the Magistrate Judge's Order on the motions for bill of particulars. (Doc. 479).
2. On April 12, 2004, the government moved for an additional fourteen days in which to file a motion to reconsider the scienter requirement. (Doc. 504). The Court granted this motion.

3. On April 26, 2004, the government filed its motion to reconsider, essentially raising three grounds: (1) it is unnecessary to interpret 18 U.S.C. § 2239B as requiring specific intent to satisfy the due process requirement of “personal guilt,” (2) it is unnecessary to bolster Section 2239B against hypothetical vagueness challenges by interpreting the statute to require specific intent, and (3) interpreting Section 2239B to require specific intent to further terrorist activities unnecessarily converts the statute from a general intent statute.

4. The government’s motion to reconsider involves a number of significant constitutional questions. In order to ensure a thorough, but concise response, undersigned counsel respectfully requests additional time to prepare the response on behalf of Mr. Fariz.

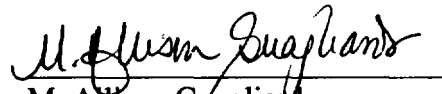
5. Counsel for Co-defendant Sami Amin Al-Arian have received an extension of time to May 20, 2004 to file their response. Undersigned counsel respectfully requests that his response also be due on or before May 20, 2004.

6. Undersigned counsel contacted Assistant United States Attorney Walter Furr who indicated that the government has no objection to this motion.

WHEREFORE, Defendant, Hatim Naji Fariz, respectfully requests an extension of time, up to and including May 20, 2004, to file his response to the Government's Motion for Reconsideration of the Court's March 12, 2004 Order As it Pertains to the Scienter Requirements of a 2339B Prosecution.

Respectfully submitted,

R. FLETCHER PEACOCK
FEDERAL PUBLIC DEFENDER


M. Allison Guagliardo
Assistant Federal Public Defender
400 North Tampa Street, Suite 2700
Tampa, Florida 33602
Telephone: 813-228-2715
Facsimile: 813-228-2562
Attorney for Defendant

CERTIFICATE OF SERVICE

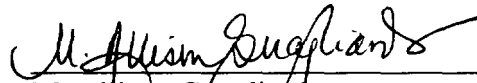
I HEREBY CERTIFY that on this 16th day of May, 2004, a true and correct copy of the foregoing has been furnished by hand delivery to Walter Furr, Assistant United States Attorney, 400 North Tampa Street, Suite 3200, Tampa, Florida 33602 and to the following by U.S. Mail:

Mr. Bruce G. Howie, Esquire
Piper, Ludin, Howie & Werner, P.A.
5720 Central Avenue
St. Petersburg, Florida 33707

Mr. Stephen N. Bernstein, Esquire
P.O. Box 1642
Gainesville, Florida 32602

Mr. William B. Moffitt, Esquire
Cozen O'Connor
1667 K Street, NW
Suite 500
Washington, D.C. 20006-1605

Ms. Linda Moreno, Esquire
1718 East 7th Avenue, Suite 201
Tampa, Florida 33605


M. Allison Guagliardo
Assistant Federal Public Defender